

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

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| IN THE MATTER OF A WAIVER OF |) | AH Docket No. 17-B-001 |
| ANIMAL HEALTH RULES |) | |
| Section ATCP 12.05 (1) (b) 1. |) | ORDER GRANTING A WAIVER FROM |
| Wisconsin Administrative Code for |) | THE REQUIREMENT THAT AN ANIMAL |
| Animal Dealers, Markets and Truckers |) | DEALER, MARKET OPERATOR OR |
| Licensed by the Department of Agriculture, |) | TRUCKER IDENTIFY WITH AN OFFICIAL |
| Trade and Consumer Protection under |) | BACK TAG AND RECORD THE OFFICIAL |
| Ch. ATCP 12, Wis. Admin. Code |) | BACK TAG OR INDIVIDUAL |
| | | IDENTIFICATION OF ANY STEER GOING |
| | | TO SLAUGHTER. |

INTRODUCTION

Under s. ATCP 12.09, Wis. Admin. Code, the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (department) may waive provisions of ch. ATCP 12, Wis. Admin. Code (Animal Dealers, Markets and Truckers) if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 12, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

Pursuant to s. ATCP 12.09, Wis. Admin. Code, the department hereby makes the following findings and conclusions and issues the following order waiving the requirement that an animal dealer, market operator, or trucker identify with an official back tag and record the official back tag or individual identification of any steer going to slaughter.

FINDINGS OF FACT

(1) The department is responsible for administering Wisconsin's animal health program under ch. 95, Wis. Stats. The program is designed to protect the health of animals in this state, and to prevent, control and eradicate communicable diseases among animals. The department has broad authority to adopt rules interpreting statutes under its jurisdiction (see s. 93.07 (1), Wis. Stats.).

(2) Under s. ATCP 12.09, Wis. Admin. Code, the department may waive any provision of ch. ATCP 12, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objective of ch. ATCP 12, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

(3) Section ATCP 12.01 (20), Wis. Admin. Code, defines official individual identification for bovine animals, and allows bovine animals to be officially identified with eartags approved by the federal bureau or the department.

(4) Section ATCP 12.05 (1) (a), Wis. Admin. Code, requires an animal dealer or animal market operator to immediately identify with official individual identification, if not already applied, and record the official individual identification of any bovine it receives, with some exceptions, including steers.

(5) Section ATCP 12.05 (1) (b) 1., Wis. Admin. Code, requires an animal dealer, market operator or trucker to immediately identify with an official back tag and record the back tag number, if not already identified under par. (4), any bovine animal for sale or shipment to slaughter. If the animal has official individual identification at the time of receipt, the person receiving the animal must record the official individual identification of the animal.

(6) Section ATCP 10.21 (2), Wis. Admin. Code, exempts steers going to slaughter from having to be identified with an official back tag at the time of receipt and animal dealers, market operators or truckers from having to record any identification (back tag or official individual identification) of such steers.

(7) On February 21, 2017, Dr. Paul McGraw, Wisconsin State Veterinarian, received a request for a waiver from s. 12.05 (1) (b) 1., Wis. Admin. Code, from a licensed animal market.

(8) Wisconsin is the only state that requires the information required under s. 12.05 (1) (b) 1., Wis. Admin. Code, and since this information is not necessary to collect at this time and conflicts with the rule exemption under s. ATCP 10.21 (2), Wis. Admin. Code, this rule waiver would be reasonable and necessary, consistent with the objectives of ch. ATCP 12, Wis. Admin. Code, for animal dealers, markets, and truckers and would not conflict with state statutes.

CONCLUSIONS OF LAW

(1) This waiver does not affect any other provisions of ch. ATCP 12, Wis. Admin. Code.

(2) This waiver does not conflict with any requirements under ch. 95, Wis. Stats.

(3) Pursuant to s. ATCP 12.09, Wis. Admin. Code, the department may grant a written waiver from a requirement under ch. ATCP 12, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with objectives of the chapter and will not conflict with state law.

(4) The department has made the findings required under s. ATCP 12.09, Wis. Admin. Code.

(5) Pursuant to s. ATCP 12.09, Wis. Admin. Code, and Findings of Fact (1) through (8), the department should waive the requirements specified under s. ATCP 12.05 (1) (b) 1., Wis. Admin. Code, for animal dealers, markets and truckers licensed under ch. ATCP 12, Wis. Admin. Code.

ORDER

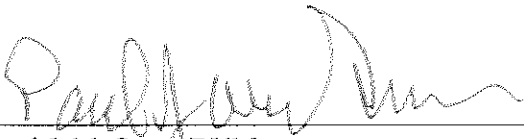
NOW, THEREFORE, it is ordered pursuant to s. ATCP 12.09, Wis. Admin. Code, that:

(1) The department grants a waiver to any animal dealer, market operator or trucker licensed under ch. ATCP 12, Wis. Admin. Code, from having to record the official individual identification of or identify with an official back tag and record the back tag number of any steer received that is going to slaughter.

(2) This waiver will remain in effect until formally rescinded by order of the State Veterinarian.

Dated this 23rd day of February, 2017

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: 

Paul J. McGraw, DVM
State Veterinarian

